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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,541	02/20/2004	William J. Pestone	Lehigh.6790	7440
7590 10/18/2005			EXAMINER	
COLEMAN SUDOL SAPONE, P.C. 714 Colorado Avenue Bridgeport, CT 06605-1601			DONOVAN, LINCOLN D	
			ART UNIT	PAPER NUMBER
			2832	

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/783,541

Applicant(s)

PESTONE, WILLIAM J.

Examiner

Lincoln Donovan

Art Unit

2832

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 4 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-20 is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claims 3-4 and 17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected claimed invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 08-02-05.

Applicant's election with traverse of claims 1-2, 5-16 and 18-20 in the reply filed on 08-02-05 is acknowledged. The traversal is on the ground(s) that figures 4 and 6 are directed towards the same embodiment. This is found persuasive. The restriction of the embodiments directed towards claims 3-4 and 17 was not traversed.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-2 and 5-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In line 8, applicant should clarify whether it was intended that the surface area of the plate be greater than the first or second magnet.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snider [US 6,677,846] in view of Rykaczewski [US 4,633,563].

Snider discloses a device for attracting metal particles [figure 6] comprising:

- a longitudinal member [41] having first and second ends;
- a housing connected to the second end substantially perpendicular to the longitudinal member [figure 6] having a magnet [12] disposed therein
- a plate [14] having a surface area secured to the housing and positioned within a proximity to the magnet to magnetize the plate with the surface area of the plate having a larger square area than that of the magnet.

Snider discloses everything claimed except an additional magnet being connected to the first end of the longitudinal surface.

Rykaczewski discloses a magnet gripper tool [figure 2] having a longitudinal shaft having first and second ends with magnets [8, 35] mounted at each end thereof.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to mount a magnet at the first end of the longitudinal shaft of Snider, as suggested by Rykaczewski, in order to enable the tool to pick up smaller, harder to reach, objects.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Snider, as modified, as applied to claim 1 above, and further in view of Ottens [US 6,669,024].

Snider, as modified, disclose everything claimed except the housing being pivotally connected to the second end.

Ottens discloses a magnetic sweeper [10] having a magnetic element [12] attached to an end of a longitudinal member [16] via a pivot connection [figure 1].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Snider, as modified, to use the pivot connection design of Ottens in order to optimize the pickup area of the sweeper.

Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snider, as modified, as applied to claim 1 above, and further in view of Berger [US 6,056,339].

Snider, as modified, disclose everything claimed except the specific mounting of the additional magnet.

Berger discloses mounting a pickup magnet within a cavity of a longitudinal support member [figure 1] being able to be extended beyond the cavity or be flush therewith.

It would have been obvious to one of ordinary skill in the art at the time the invention was made modify the mounting structure for the magnet on the longitudinal member of Snider, as modified, as suggested by Berger, in order to optimize pick-strength for the particular environment of use.

Allowable Subject Matter

Claims 9-20 are allowed.

Restricted claim 17 has been rejoined with allowable claim 16.

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Conclusion

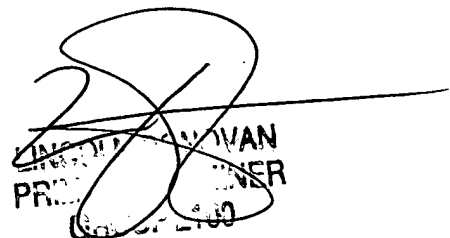
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Haase et al. [US 6,142,310], Coleman, Jr. et al. [US 5,945,901], Fader et al. [US 6,677,845], Jameson et al. [US 5,395,148], Hubbard, Jr. [US 5,868,258] and Westermann [US 3,646,492].

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lincoln Donovan whose telephone number is 571-272-1988. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Enad Elvin can be reached on 571-272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ldd



A handwritten signature, likely of Lincoln Donovan, is written over a rectangular stamp. The stamp contains the text "LINCOLN DONOVAN" and "PR..." (partially obscured). The signature is a large, stylized "LD" with a horizontal line extending to the right.